

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

Mistral (SPC),

Defendant.

Adv. Pro. No. 12-01273 (SMB)

**SO ORDERED STIPULATION REGARDING DISMISSAL OF COUNT ONE OF THE
COMPLAINT**

WHEREAS, Plaintiff Irving H. Picard (the “Trustee”), as trustee for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§78aaa *et seq.*, and the estate of Bernard L. Madoff, individually, commenced this Adversary Proceeding by filing a complaint (the “Complaint”) against Mistral (SPC) (the “Defendant”) on April 5, 2012;

WHEREAS, on November 22, 2016, this Court issued a Memorandum Decision Regarding Claims to Recover Foreign Subsequent Transfers that granted in part and denied in

part the Defendant's motion to dismiss the Complaint, and granted the Trustee leave to amend.
See Securities Investor Prot. Corp. v. Bernard L. Madoff Inv. Sec. LLC, Adv. Pro. No. 08-01789
(SMB), ECF No. 14495; and

WHEREAS the Trustee has decided not to appeal this Court's dismissal of Count 1 of
his Complaint;

IT IS HEREBY STIPULATED AND AGREED by the undersigned counsel that:

1. Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, as
incorporated by Rule 7041 of the Federal Rules of Bankruptcy Procedure, Count 1 of the
Complaint, to recover from the Defendant an amount attributed to a subsequent transfer received
from Kingate Global Fund, Ltd. in the amount of \$200,033 (Compl. p.14, ¶¶ 63-67), is hereby
dismissed with prejudice.

2. Except as specifically addressed in paragraph 1, above, this Stipulation is without
prejudice to, or waiver of, any rights, arguments, or defenses otherwise available to the Trustee
or the Defendant, including any defenses based on lack of personal jurisdiction.

Dated: January 18, 2017
New York, New York

By: /s/ Howard L. Simon
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for the Substantively Consolidated SIPA
Liquidation of Bernard L. Madoff Investment
Securities LLC and the Estate of Bernard L.
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By: /s/ William J. Sushon
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Attorneys for Defendant Mistral (SPC)

SO ORDERED

Dated: January 19, 2017
New York, New York

/s/ STUART M. BERNSTEIN
HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE